

**DIRECT TESTIMONY**

**ROY A. KING**

**WATER DEPARTMENT**

**FINANCIAL ANALYSIS DIVISION  
ILLINOIS COMMERCE COMMISSION**

**HIGHLAND SHORES WATER COMPANY**

**Docket No. 01-0489**

**September 2001**

1   **Q.    Please state your name and business address.**

2    A.    My name is Roy A. King. My business address is 527 East Capitol Avenue, P.  
3        O. Box 19280, Springfield, Illinois 62794-9280.

4  
5   **Q.    By whom are you employed and in what capacity?**

6    A.    I am employed by the Illinois Commerce Commission (Commission) as an  
7        Economic Analyst in the Water Department of the Financial Analysis Division  
8        (FAD).

9  
10   **Q.   How long have you been employed by the Commission?**

11   A.    Since August of 1979.

12  
13   **Q.   Will you please briefly state your qualifications?**

14   A.    I graduated from Chicago Technical College in 1970 with a Bachelor of Science  
15        degree in Architectural Engineering.

16  
17        From 1970 to May 1979, I served with the U.S. Navy. My assignments included  
18        those of Maintenance Supervisor, Instructor, Counselor for a Drug and Alcohol  
19        Program, and managing a division of 30 men and its related equipment. Since

20 August 1979, I have been employed by the Commission. Until mid-1982, I was  
21 assigned to the Public Utilities Division, Engineering Department, Gas and  
22 Electric Section as a Utility Engineer. My duties were to assist the Chief Gas  
23 Engineer and the Chief Engineer in the administration of all engineering matters  
24 associated with the regulation of privately owned gas and electric utilities in the  
25 State of Illinois. During this period, my duties included (1) evaluating rate filings  
26 and rules and regulations filings, (2) assisting the Consumer Services Division,  
27 upon request, in handling investigations and correspondence relating to electric  
28 and gas inquiries and complaints, (3) evaluating testimony presented by the  
29 utilities and conducting cross-examination, (4) testifying on behalf of Staff in  
30 applications for Certificates of Convenience and Necessity (Certificates), rate  
31 proceedings and other formal cases which contain issues requiring review by the  
32 Engineering Department, and (5) processing other work as directed by the Chief  
33 Engineer.

34  
35 In 1982, Staff functions were reorganized and I was assigned to the Water and  
36 Sewer Section within the Engineering Department. My duties were very similar  
37 to those previously described, except that I worked on matters associated with  
38 water and sewer utilities.

39  
40  
41 In November of 1992, engineering and rate matters for water and sewer utilities  
42 were transferred to the Office of Policy and Planning (OPP) and I was assigned  
43 to OPP. My duties include (1) evaluating rate schedule filings, and rules and  
44 regulations filings, (2) assisting the Consumer Services Division, upon request, in  
45 handling inquiries and complaints, (3) evaluating testimony presented by the  
46 utilities and conducting cross-examination, (4) testifying on behalf of Staff in  
47 applications for Certificates, rate proceedings, and other formal cases which  
48 contain issues requiring review by OPP, and (5) reviewing cost-of-service studies  
49 for the water and sewer utilities when so assigned.

50  
51 In 1997, Staff's functions were reorganized and I was assigned to the Rates  
52 Department within FAD (formerly Public Utilities Division). In 2000, Staff's  
53 functions were reorganized forming a Water Department and I was assigned to  
54 the Water Department. My duties are the same as those previously described.

55  
56 Since being employed by the Commission, I have received an Associates Degree  
57 in Business Administration from Lincoln Land Community College, Springfield,

Illinois, and in 1985, I received a Bachelor of Arts Degree in Management from the University of Illinois, Springfield (formerly Sangamon State University), Springfield, Illinois.

In addition, I have attended a number of courses regarding utility regulation, including several sponsored by the National Association of Regulatory Utility Commissioners (NARUC). I completed a one-week utility rate seminar co-sponsored by the NARUC Water Committee and the University of Utah Center for Continuing Education. I have also completed a course in Sewage Treatment Plant Operations, which was sponsored by the Environmental Training Resource Center at Southern Illinois University, and three courses in depreciation practices that were sponsored by Depreciation Programs, Inc.

**Q. Are you a member of any professional organizations?**

**A.** Yes, I am a member of the Illinois Potable Water Operator's Association, Illinois Section of the American Water Works Association and American Water Works Association.

**Q. What is your assignment in this case?**

77 A. I was assigned by the Manager of the Water Department to examine Highland  
78 Shores Water Company's (HSWC, Highland or Company) operations for  
79 compliance with the Order entered in Docket No. 97-0606. This Order described  
80 certain requirements to be completed on the facilities and records to be  
81 maintained to comply with the Public Utilities Act (PUA) and the Illinois  
82 Commerce Commission's Administrative Codes. Specifically, my responsibilities  
83 include presenting testimony regarding HSWC's compliance with the Order in the  
84 Docket No. 97-0606.

85  
86 **Q. Could you briefly describe HSWC's service area and the water facilities**  
87 **utilized to serve the area?**

88 A. The Company is currently providing water service to approximately 644  
89 residential customers in Highland Shores Subdivision, in McHenry County,  
90 Illinois. HSWC is one of five utilities in McHenry County owned by T. P.  
91 Mathews. The other affiliated utilities are:

92 McHenry Shores Water Company;  
93 Crystal Clear Water Company;  
94 Northern Illinois Utilities, Inc.; and,  
95 Wonder Lake Water Company.  
96

97 HSWC received its initial Certificate of Public Convenience and Necessity on

March 13, 1953, in Docket No. 40228.

The water distribution system for HSWC consists of two wells, one hydro-pneumatic storage tank for a capacity of 20,000 gallons, one 45,000 gallon elevated storage tank, approximately 36,500 feet of four through eight inch diameter mains, approximately 644 services, 644 meters, and eighteen (18) hydrants and four (4) flushing valves.

**Q. Could you describe the events that occurred leading to the Commission entering the Order in Docket No. 97-0606?**

**A.** Yes, On January 10, 1997, Mr. Thomas P. Mathews, owner and operator of HSWC, filed for an increase in revenues under the Commission's simplified rate case procedures. In response to HSWC's notification to the customers regarding the rate increase, Consumer Services Division (CSD) began receiving letters and phone calls. As a result of those responses filed by the customers, a public meeting was held on March 18, 1997.

The purpose of the public meeting was to allow customers the opportunity to voice any concerns about issues regarding the Company. Mr. Mathews and Mr.

117 Jeff Klaus, Vice President, and Mr. Clyde Kurlander, Legal Counsel, represented  
118 HSWC at the public meeting. Representatives from the Illinois Environmental  
119 Protection Agency (IEPA) were present and also answered questions.  
120 Approximately 75 customers served by Highland attended. The customers  
121 voiced anger and frustration about the quality of water, Company management,  
122 service, and the lack of concern and action by the Commission and IEPA.

123  
124 As a result of the public meeting, the Commission initiated a Citation proceeding,  
125 Docket No. 97-0606, which terminated the simplified rate case procedure and  
126 commenced an investigation into its rates and non-compliance to Commission's  
127 rules and regulations. In June 1999, the Commission entered an Order in Docket  
128 No. 97-0606, granting HSWC an increase in revenues and requiring HSWC to  
129 make improvements to the facilities and records.

130  
131 **Q. Can you describe the requirements set forth in the Order in Docket No. 97-**  
132 **0606 and the time schedule that the Company was to complete upgrading**  
133 **the facilities and records to comply with the Public Utilities Act (PUA) and,**  
134 **the Illinois Commerce Commission's Administrative Codes.**

135 **A.** The following summary set forth the actions to be taken and the deadline to be



**Docket No. 01-0489**  
**ICC Staff Exhibit 1.0 revised**

completed. Note: All deadlines extend from the date of the Order (June 16, 1999).

	Requirement	Deadline	Completion
1.	Establish a meter testing program on meters that are 10 yrs. or older;	120 days	Not completed
2.	Participate in State-Wide One Call Notice (JULIE);	1 year	Completed
3.	Installation of meters to all customers;	1 year	Not Completed
4.	Quarterly reports indicating location of installed meters and remotes and documenting quantity of customer refunds;	Quarterly	Not Completed
5.	Install an additional main along Lake Shore Drive north of Ramble Road;	5 years	Not completed
6.	Dead-ends mains to be looped;	5 years	Not completed
7.	Replace or repair 4 hydrants and correct the discrepancies on Schedule 3.03 (a) and (b);	1 year	Not completed
8.	Install new elevated storage tank with at least 200,000 gals.;	18 months	Not completed
9.	Install hydrants or flushing hydrants on uncapped mains;	90 days	Not completed
10.	Establish 8" future main program;	--	No mains installed.
11.	Install alternative source of power for wellhouse, and; moisture proof electrical receptacles; and	6 months	Not Completed  Completed
12.	Establish and maintain continuing property ledger.	6 months	Not completed

140 **Q. Have you reviewed the Company's procedures for testing customer's**  
141 **meters?**

142 A. 83 Ill Adm. Code Section 600.300 and the Order in Docket No. 97-0606, requires  
143 that 5/8" meters be tested on a 10 year cycle. During my inspection of the  
144 facilities, I did not see a meter testing bench or any evidence that the Company  
145 plans to establish a program to test meters on a regular basis or by any outside  
146 sources. The Company reported in their September 1999 initial report that they  
147 had arranged to have meters tested by an outside source when the customers  
148 request that their meters be tested. The Company did not provided any support  
149 in their May 15, 2001 filing for a rate increase under the Simplified Rate  
150 Procedures, that they have contracted any outside source for testing of meters.

151  
152 **Q. In your opinion, has HSWC instituted a meter replacement program or an**  
153 **installation program?**

154 A. No. In HSWC's initial report of September 15, 1999, they stated that the  
155 "Company plans to replace all meters over ten years old will be replaced during  
156 the years 1999 and 2000." Based on my discussion with Company personnel, it  
157 appears that there is no program in place to replace the meters in HSWC's water  
158 system. The Company's filing for a rate increase, under the Simplified Rate

Procedures, further illustrated this. The filing did not include any contracts showing the purchase of a large quantity of meters and their associated outside registers.

**Q. The Order in Docket No. 97-0606 requires HSWC to provide quarterly reports to Staff regarding installation of meters and remote registers and the amount of refunds with interest made to customers. Based on your investigation, has HSWC made those reports available to Staff according to the Order in Docket No. 97-0606?**

**A.** No. HSWC made an initial report on September 15, 1999. However, the report did not provide any details as to locations of the meter installations or the customers receiving refunds. In May 2000, Mr. Raymond E. Pilapil, Manager of the Water Department, and I met with Mr. Thomas P. Mathews. During that meeting I ask Mr. Mathews why Staff had not received any reports about refunds to customers. Mr. Mathews reported that the Company was experiencing difficulty with their computer due to Y2K problems. Approximately one year later, I requested the information again. This time it was reported that they had upgraded their computers and the information I was requesting was not readily available. They indicated that they would check with the manufacturer to see

178 how they could gather the information. As of this date, I have not received any  
179 information from the Company.

180  
181 **Q. You indicated that the Order required HSWC to establish a meter-reading**  
182 **program, so that HSWC could be consistently billed. In your investigation**  
183 **regarding compliance to the Order, has the Company established a**  
184 **program so that the customer's meters will be read at least every second**  
185 **billing period?**

186 **A.** Based on Staff's discussion with HSWC's personnel, it was reported that they  
187 had a program in place. However, at the time of the Staff's inspection, the  
188 Company had not read meters for approximately 3 billing cycle. Therefore,  
189 customers were experiencing bills that had two or more consecutive estimates.

190  
191 **Q. In the above answer, you indicated that the Company had estimated**  
192 **customers bills two or more consecutive times. In your opinion, does**  
193 **estimating bills two or more consecutive times comply with 83 Ill. Adm.**  
194 **Code Part 280, "Procedures for Gas, Electric, Water, Sanitary Sewer**  
195 **Utilities Governing Eligibility for Service, Deposits, Payment Practices and**  
196 **Discontinuance of Service?"**

197 A. No. Based on my experience with the Commission, it appears that Highland  
198 Shores is in violation of 83 Ill. Adm. Code 280.80, "Estimated Bills." Part 280.80  
199 stipulates that all utilities shall make an actual meter reading at least every  
200 second billing period. Estimates may be used if the utility has taken appropriate  
201 and reasonable measures to read the meters, such as making an appointment  
202 with the customer, scheduling readings other than normal business hours, or  
203 providing postal cards for customer readings.

204  
205 **Q. Since the Order was issued in Docket No. 97-0606, are you aware of any**  
206 **petition by HSWC requesting or the Commission granting HSWC a variance**  
207 **from Part 280.80?**

208 A. No.

209  
210 **Q. Have you reviewed the Company's operations?**

211 A. Yes, I have personally visited and reviewed the Company's operations and  
212 facilities on a number of occasions since 1993.

213  
214 **Q. Did you inspect HSWC's water facilities in connection with this case?**

215 A. I inspected HSWC's water treatment facilities, valves and hydrants as a follow-up

to the Order in docket No. 97-0606.

**Q. Having inspected the water facilities, were there any other deficiencies found concerning the reliability of service and/or safety related items?**

A. Yes, I found the following deficiencies:

a) The following hydrants were found to still be in need of repair replacement:

No. 13 – Hydrant leaking after shut-off;  
No. 1 – Hydrant upper barrel crack;  
No. 15 – Hydrant upper barrel crack; and  
No. 4 – Hydrant does not work.

b) Dead-end mains, where valves were located, did not have any type of flushing hydrant, some mains were uncapped and when the valves were opened water was discharged underground; and,

c) There is inadequate storage capacity.

**Q. Are items (a) and (c) above the same items reported by you in Docket 97-0606, in which the Commission ordered HSWC to replace and/or repair?**

A. Yes, they are.

**Q. Do you consider item (b) a safety hazard that should be repaired as soon as possible?**

A. Yes I do for the following reason. If a main break should occur during the flushing cycle, it is possible a vacuum could be created on the system. This

could pull dirt and other contaminants into the water supply thus contaminating the water and possibly violating 83 Ill. Adm. Section 600.210. Section 600.210 requires a utility to furnish a safe water supply suitable for drinking and free of any hazards to health.

**Q. I am showing you a document marked for identification as ICC Staff Exhibit 1.00, Schedule 1.01, and ask you to identify these documents.**

**A.** Schedule 1.01 is a two-page summary of my inspection of the Company's hydrants.

**Q. On Schedule 1.01, it appears that there were other minor discrepancies with the hydrants in HSWC's system that you found besides item (a), such as missing hydrant cap chains and hydrants needing painting. Are you recommending that these discrepancies be repaired?**

**A.** Yes, I am still recommending these discrepancies be repaired. These discrepancies still exist, as found and reported in Docket No. 97-0606.

**Q. Has HSWC increased its storage capacity as per the Order in Docket No. 97-0606?**

A. No.

**Q. Do you still believe that HSWC's storage capacity is inadequate to meet the customers demands and that the Company should install additional capacity?**

A. Yes, in the Order the Commission required HSWC to install an elevated storage tank having at least 200,000 gallons of storage within 18 months of the date of the Order (June 19, 1999). In the Company's September 15, 1999 report, they stated, " Looping of dead-ends is being investigated by the engineers conducting a study on the system and the new storage vessel." The existing system consist of an elevated storage tank having a capacity of 45,000 gallons, which is less than Illinois Environmental Protection Agency (IEPA), "Recommended Ten States Standards for Water Works." A utility is required by 83 Ill. Adm. Code Section 600.210 to conform to the standards of drinking water as established by the IEPA. To comply with the IEPA regulations, the Company should have at least 200,000 gallons of storage capacity. (Storage capacity should equal average daily pumpage).

**Q. Since the Commission granted HSWC a rate increase of \$8,515 (8.6%**



278        **increase) in June 1999, have any events occurred that affects the**  
279        **Company's financial status?**

280    A.    Yes, on or about late October or earlier November 1999, HSWC filed for  
281        bankruptcy. Based on my understanding, the Company is still in bankruptcy.

282  
283    **Q.    Have you completed your investigation into HSWC's operation and**  
284        **financial status concerning this docket?**

285    A.    No. Staff's Schedule 1.02 is a data request mailed to Mr. Mathews requesting  
286        additional information concerning continuing property records, electric bills,  
287        missing quarterly reports and billing practice. The Company was to respond to  
288        the data requests by August 31, 2001. As of September 14, 2001, Staff has not  
289        received those responses.

290  
291    **Q.    Has HSWC established Continuing Property Records as per the Order in**  
292        **Docket No. 97-0606?**

293    A.    No. Based on my discussion with Company personnel, it appears that  
294        Continuing Property Records has not been established.

295  
296    **Q.    Based on the above reasons, do you have a recommendation to the**  
297        **Commission concerning the status of Highland Shores Water Company;**

**owned and operated by Mr. Mathews?**

A. Yes, I am recommending to the Commission that Section 4-502 of the PUA be applied in this instance. Under Section 4-502 (a), the Commission may provide for the acquisition of a small public utility or telecommunications carrier by a capable public utility or telecommunications carrier, if the Commission, after notice and an opportunity to be heard, determines one or more of the following:

- (1) The small public utility or telecommunications carrier is failing to provide safe, adequate, or reliable service;
- (2) The small public utility or telecommunications carrier no longer possesses sufficient technical, financial, or managerial resources and abilities to provide the service Or services for which its certificate was originally granted;
- (3) The small public utility or telecommunications carrier has been actually or effectively abandoned by its owners or operators;
- (4) The small public utility or telecommunications carrier has defaulted on a bond, note, or loan issued or guaranteed by a department, office, commission, board, authority, or other unit of State government;
- (5) The small public utility or telecommunications carrier has wilfully failed to comply with any provision of this Act, any other provision of State or federal law, or any rule, Regulation, order, or decision of the Commission; or
- (6) The small public utility or telecommunications carrier has willfully allowed property owned or controlled by it to be used in violation of this Act, any other provision of State or federal law, or any rule, regulation, order, or decision of the Commission.

Therefore, for the reasons discussed above, it appears that the

HSWC does not meet the requirements stated in provisions (1), (2) and (5) of Section 4-502.

**Q. If the Commission should order the acquisition of HSWC by a capable public utility, what utilities are in the vicinity, which are capable of complying with the order in Docket No. 97-0606 and improving overall service to the customers.**

**A.** Of the investor-owned utilities that the Commission regulates, it would appear to be Citizens Utilities Company of Illinois, Consumers Illinois Water Company and Utilities, Inc.

**Q. Does this conclude your Direct Testimony?**

**A.** Yes, it does.